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Attorneys for Defendants
 CITY OF COTATI, BENNET KNIGHT, and BAUDELIA
 GALLO

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

JANE DOE

Plaintiff,

v.

CITY OF CONCORD; CITY OF
 COTATI; COUNTY OF CONTRA
 COSTA; COUNTY OF SONOMA;
 GUY SWANGER; TAMRA
 ROBERTS; CODY HARRISON;
 RENELLE-REY VALEROS; DIANA
 BECTON; CHRISTOPHER
 WALPOLE; COLLEEN GLEASON;
 JILL RAVITCH; ANNE
 MASTERSON; LAURA
 PASSAGLIA; BENNET KNIGHT;
 BAUDELIA GALLO; and DOES 1-
 10, inclusive.

Defendants.

Case No. 3:20-02432-JD

**JOINT CASE MANAGEMENT
 CONFERENCE STATEMENT**

Hon. James Donato

Date: December 10, 2020

Time: 10:00 a.m.

Location: Courtroom 11, 19th
 Floor (via Zoom)

**[Court will decide whether to
 issue order based upon this
 Statement, or hold a CMC] (See
 G.O. 72-6]**

The parties to the above-entitled action jointly submit this Case Management Conference
 Statement.

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CMC STATEMENT (12-10-20)

1 **1. JURISDICTION AND SERVICE:**

2 This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 (federal question),
3 in that Plaintiff's claims for relief arise under 42 U.S.C. §1983. All parties have been served, and
4 no issues exist regarding personal jurisdiction.

5 Currently pending before the Court are Defendants' respective motions to dismiss.

6 **2. FACTS:**

7 **a. Brief Chronology of Facts:**

8 Plaintiff's Account

9 This lawsuit arises from the discriminatory practice of Defendants against female sexual
10 assault victims. Defendants treat sexual assault cases with less urgency and importance than are
11 afforded to other types of violent crimes. This practice of affording inadequate protection, or no
12 protection at all, to women who have complained of sexual assault is tantamount to an
13 administrative classification used to implement the law in a discriminatory fashion. As such,
14 Plaintiff has been afforded less favorable terms and conditions than victims of other
15 assaults/crimes, and continues to be afforded less favorable terms and conditions. Defendants
16 intentionally provide unequal protection to sexual assault victims in the form of failing to respond
17 with equal effort to sexual assault victims the same as Defendants do with victims of other
18 crimes, including but not limited to conducting little to no investigation, acting contrary to normal
19 procedure and substantive criteria, and giving distorted and false legal information to deter
20 Plaintiff from pursuing her case. Defendants' actions or inactions, protocol and procedures,
21 disproportionately affect female sexual assault victims generally and violated Plaintiff's equal
22 protection rights and Victims' Bill of Rights. As a consequence, Plaintiff, as a female victim of
23 sexual assault, obtained less protective resources of the state compared with victims of other
24 assaults/crimes.

25 Defendants' Account

26 This lawsuit arises from sexual assault allegations(s) made by Plaintiff, and the
27 Defendants' individual investigations and/or prosecution decisions regarding those allegation(s).
28 To-wit: Plaintiff asserts bias; she asserts improper investigations and prosecution decisions.

Defendants deny such assertions.

For Plaintiff's detailed description of her account, please see the operative First Amended Complaint ("FAC").

b. Principal Factual Issues in Dispute:

- (1) The information provided by Plaintiff to Defendants;
- (2) Defendants' conduct following Plaintiff's information;
- (3) Defendants' interactions vis-à-vis Plaintiff; and
- (4) The nature and extent of Plaintiff's incident-related injuries.

3. Legal Issues

Plaintiff's FAC alleges nine legal claims:

- (1) Equal Protection under 42 U.S.C. § 1983 (first cause of action);
- (2) Civil Conspiracy under 42 U.S.C. § 1983 (second cause of action);
- (3) *Monell* liability under 42 U.S.C. § 1983 - (third cause of action);
- (4) *Monell* liability under 42 U.S.C. § 1983 - (fourth cause of action);
- (5) Article 1, Section 7 of the California Constitution (fifth cause of action);
- (6) Article 1, Section 28(a)-(b) of the California Constitution (sixth cause of action)¹;
- (7) Negligent Supervision/Discipline/Training/Retention (seventh cause of action);
- (8) Intentional Infliction of Emotional Distress (eighth cause of action); and
- (9) Civil Code section 51 (ninth cause of action).

Adjudication of Plaintiff's claims and Defendant's defenses will depend on the resolution of the following principal legal disputes, in addition to the factual disputes listed above:

- (1) Whether the prosecutor-related defendants possess absolute immunity;
- (2) Whether Plaintiff possesses standing;
- (3) Whether entities may be held vicariously liable under 42 U.S.C. § 1983;

¹ *Id.* at ¶¶ 185-192.

- (4) Whether the FAC sufficiently alleges equal protection and civil conspiracy;
- (5) Whether the FAC adequately pleads *Monell* liability;
- (6) Whether any public entity defendant possessed an unconstitutional custom, policy, or practice;
- (7) Whether individual defendants possess qualified immunity to the federal claims; and
- (8) Whether the state-law claims are barred by Government Code § 821.6.

This is a non-exhaustive list.

4. Motions:

Currently pending before the Court are Defendants' respective Rule 12(b)(6) motion to dismiss the FAC.

Depending on discovery, Defendants may file a motion for summary judgment or, in the alternative, summary adjudication.

5. Amendment of Pleadings:

None anticipated for Defendants.

6. Evidence Preservation:

The parties have taken all steps necessary to preserve evidence relevant to the issues reasonably evident in this action.

7. Disclosures:

The parties agree to serve their Rule 26 Initial Disclosures no later than January 7, 2021.

8. Discovery:

- (1) No discovery to-date in this litigation (see related actions, below);
- (2) The parties do not propose any limitations or modifications to the discovery rules;
- (3) In addition to written discovery, the parties will take depositions and conduct expert discovery. They plan to offer expert testimony on the following subject matter(s): police practices. The parties may also offer expert testimony on other subject matters; and
- (4) Defendants request a protective order. Such order benefits all parties, as it equally

safeguards both sides' confidential information.

9. Class Actions:

This case is not a class action.

10. Related Cases:

Sonoma County Superior Court, Case No. SCV-267189, *Jane Doe v. County of Sonoma. City of Cotati, and Sonoma State University* [Plaintiff's state-court writ action relief related to her California Public Records Act requests]

Contra Costa County Superior Court, Case No. N20-1440, *Jane Doe v. County of Contra Costa, City of Concord* [Plaintiff's state-court writ action relief related to her California Public Records Act requests]

11. Relief:

Plaintiff seeks monetary damages, as well as declaratory and injunctive relief.

12. Settlement and ADR:

The parties request referral to Magistrate Judge Beeler for a settlement conference.

13. Consent to Magistrate Judge for All Purposes:

One or more parties previously declined magistrate jurisdiction.

14. Other References:

This case is not suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues:

The parties are presently unaware of any issues that can be narrowed by agreement; nor suggestions to expedite the presentation of evidence at trial (e.g., through summaries or stipulated facts); or any request to bifurcate issues, claims, or defenses. They request that this issue be revisited at a further case management conference.

16. Expedited Schedule

The present matter is not the type of case that can be handled on an expedited basis with streamlined procedures.

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17. Scheduling:

The parties propose the following scheduling order:

Plaintiff's Proposed Timeline

Plaintiff proposed fact discovery cutoff of December 31, 2022, with the Court setting the other case-related deadlines off that date, per its usual calendaring timeframe. Plaintiff requests this amount of time for fact discovery because this case involves multiple law enforcement agencies and she does not have sufficient resources to efficiently conduct discovery. In Plaintiff's review, an impetuous discovery would significantly prejudice her.

Defendants' Proposed Timeline

Join Other Parties/Amend the Pleadings:	January 14, 2021
Fact Discovery Cut-off:	August 17, 2021
Expert Disclosures:	August 31, 2021
Rebuttal Expert Disclosures:	September 21, 2021
Expert Discovery Cut-off:	October 12, 2021
Dispositive/ <i>Daubert</i> Filing Deadline:	December 14, 2021
Pretrial Conference	April 21, 2022
Trial (subject to Court's availability):	May 9, 2022

18. Trial:

All parties demand a jury trial. A 5-7 day trial is estimated.

19. Disclosure of Non-party Interested Entities or Persons:

None for Plaintiff or Defendants. Each required party will file its Certification no later than December 31, 2020.

20. Professional Conduct

All attorneys of record have reviewed the Guidelines.

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21. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.

None at this time.

Respectfully submitted,

DATED: December 4, 2020

By: /s/ Jane Doe

JANE DOE

Plaintiff

DATED: December 4, 2020

SHARON L. ANDERSON
COUNTY COUNSEL

By: /s/ Patrick L. Hurley

PATRICK L. HURLEY

Deputy County Counsel

Attorneys for Defendants

COUNTY OF CONTRA COSTA, DIANA BECTON,
CHRISTOPHER WALPOLE and COLLEEN
GLEASON

DATED: December 4, 2020

SUSANNE BROWN
CITY ATTORNEY

By: /s/ Joshua K. Clendenin

JOSHUA K. CLENDENIN

Attorneys for Defendants

CITY OF CONCORD, CODY HARRISON, TAMRA
ROBERTS, GUY SWANGER and RENELLE-REY
VALEROS

1 DATED: December 4, 2020

ROBERT H. PITTMAN
COUNTY COUNSEL

2
3 By: /s/ Michael A. King

4 MICHAEL A. KING

5 Attorneys for Defendants

6 COUNTY OF SONOMA, ANNE MASTERSON,
LAURA PASSAGLIA and JILL RAVITCH

7
8 DATED: December 4, 2020

ALLEN GLAESSNER HAZELWOOD WERTH

9
10 By: /s/ Kevin P. Allen

11 KEVIN P. ALLEN

12 Attorneys for Defendants

13 CIT OF COTATI, BENNET KNIGHT and
BAUDELIA GALLO